

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RAAFAT ELSISY,

Plaintiff,

Case No. 19-cv-13346

v.

UNITED STATES DISTRICT COURT JUDGE
GERSHWIN A. DRAIN

CITY OF KEEGO HARBOR, ET AL.,

Defendants.

**ORDER ACCEPTING AND ADOPTING REPORT AND
RECOMMENDATION [#60]; GRANTING DEFENDANTS' MOTION TO
DISMISS [#25]; DENYING PLAINTIFF'S MOTION FOR SANCTIONS
[#39]; AND DENYING AS MOOT PLAINTIFF'S MOTION FOR LACK OF
SUBJECT MATTER JURISDICTION AND OTHER ISSUES [#67]**

I. REPORT AND RECOMMENDATION (ECF No. 60)

This matter is before the Court on Defendants' Motion to Dismiss (ECF No. 25) and Plaintiff's Motion for Sanctions (ECF No. 39). The Court referred the matter to Magistrate Judge Anthony P. Patti, who issued a Report and Recommendation on February 3, 2021, recommending that the Court grant Defendants' Motion to Dismiss (ECF No. 25) and deny Plaintiff's Motion for Sanctions (ECF No. 39). ECF No. 60. Neither party has filed objections to the Magistrate

Judge's Report and Recommendation, and the time for filing objections has expired.¹ *See* 28 U.S.C. § 636(b)(1)(C).

Upon review of the parties' briefing and the Magistrate Judge's Report and Recommendation, the Court concludes that the Magistrate Judge reached the correct conclusion. Therefore, the Court hereby **ACCEPTS** and **ADOPTS** Magistrate Judge Patti's February 3, 2021 Report and Recommendation [#60] as this Court's findings of fact and conclusions of law. Accordingly, Defendants' Motion to Dismiss [#25] is **GRANTED**, and Plaintiff's Motion for Sanctions [#39] is **DENIED**.

II. MOTION FOR LACK OF SUBJECT MATTER JURISDICTION AND OTHER ISSUES (ECF No. 67)

As a final matter, the Court is in receipt of Plaintiff's Motion for Lack of Subject Matter Jurisdiction and Other Issues, which Plaintiff filed on March 5, 2021. ECF No. 67. In his Motion, Plaintiff first argues that he has not been treated fairly in this Court and he thus is seeking "recusal/disqualifications or an appeal[.]" *Id.* at PageID.668. To the extent that Plaintiff is seeking disqualification, the Court

¹ On February 17, 2021, the Court granted Plaintiff additional time to file any potential objection(s) in a text-only order. Plaintiff failed to file any objection(s) by February 26, 2021. The Court denotes that Plaintiff filed two other motions for extensions of time, and a motion to reconsider the denial of his second motion for extension of time. The Court denied Plaintiff's additional requests for additional time in three separate orders. ECF Nos. 63, 65, 68.

emphasizes that it has already ruled on Plaintiff's prior Motion for Recusal/Disqualifying of All the Judges & Magistrate Judges Pursuant to 28 U.S.C. § 144, 455 (b)(1) and 455(a) (ECF No. 50) in an Opinion and Order on December 15, 2020. ECF No. 59. In its Opinion and Order, this Court concluded that Plaintiff failed to raise any personal or extrajudicial reason as grounds for disqualification. *Id.* at PageID.577. Plaintiff did not file a motion for reconsideration of this Opinion and Order, and the time for filing such a motion has expired. E.D. Mich. L.R. 7.1(h)(1).

To the extent that Plaintiff is seeking an appeal, his requested relief is premature at this juncture. At the time of this writing, the Court has not yet issued a final judgment on this matter.

Lastly, to the extent that Plaintiff is raising issues related to his Motion for Sanctions (ECF No. 39), *id.* at PageID.668–69, the Court concludes that its present Order Accepting and Adopting Magistrate Judge Patti's February 3, 2021 Report and Recommendation [#60] renders Plaintiff's argument moot. As indicated *supra*, Plaintiff failed to timely file objections to the Magistrate Judge's Report and Recommendation, and the time for filing objections has expired.

Accordingly, the Court will **DENY AS MOOT** Plaintiff's Motion for Lack of Subject Matter Jurisdiction and Other Issues [#67].

III. CONCLUSION & ORDER

For the reasons set forth above, **IT IS HEREBY ORDERED** that the Court **ACCEPTS** and **ADOPTS** Magistrate Judge Patti's February 3, 2021 Report and Recommendation [#60] as this Court's findings of fact and conclusions of law. Accordingly, Defendants' Motion to Dismiss [#25] is **GRANTED**, and Plaintiff's Motion for Sanctions [#39] is **DENIED**.

IT IS FURTHER ORDERED that Plaintiff's Motion for Lack of Subject Matter Jurisdiction and Other Issues [#67] is **DENIED AS MOOT**.

IT IS SO ORDERED.

Dated: March 9, 2021

/s/Gershwin A. Drain
GERSHWIN A. DRAIN
United States District Judge

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on
March 9, 2021, by electronic and/or ordinary mail.

/s/ Teresa McGovern
Case Manager